

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6618

BILL NUMBER: SB 138

DATE PREPARED: Jan 16, 2002

BILL AMENDED: Jan 15, 2002

SUBJECT: Human cloning.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill declares that cloning is against public policy. The bill prohibits the state and a political subdivision of the state from using public funds, facilities, or employees to knowingly participate in cloning activities. The bill also requires the State Department of Health to revoke the license of a hospital that knowingly allows: (1) the hospital's facilities to be used for cloning or attempted cloning; or (2) the hospital's employees, in the course of the employee's employment, to participate in cloning or attempted cloning. It also requires the Medical Licensing Board to revoke the license of a physician who knowingly participates in human cloning. The bill makes the following activities a Class D felony: (1) Participating in cloning. (2) Implanting or attempting to implant the product of human cloning into a uterine environment to initiate a pregnancy. (3) Shipping or receiving the product of human cloning for the purpose of implanting the product into a uterine environment to initiate a pregnancy. The bill further makes the knowing or intentional purchase or sale of a human ovum, zygote, embryo, or fetus a Class C felony.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) This bill prohibits the State or any political subdivision from using any public funds, facilities, or employees to support any activities related to the cloning of a human being. This provision prohibits the administrative agencies, universities, and local governmental units from spending state funds or devoting state resources to a specified activity. The extent of general cloning research being done at state-sponsored universities is unknown.

The bill also requires the State Department of Health to revoke the license of a hospital if the State Health Commissioner proves by a preponderance of the evidence that the hospital knowingly allows the hospital facilities or hospital employees, within the scope of their employment, to be used for or participate in cloning or attempted cloning of a human being.

The bill further requires the Medical Licensing Board to revoke a physician's license if the Attorney General

after appropriate notice and the opportunity for a hearing, proves by a preponderance of the evidence that the physician knowingly participates in or otherwise supports research or other activities facilitating the cloning of a human being. This provision could result in additional administrative expenses for the Attorney General's office.

The bill also establishes two new Class D and C felonies respectively: 1) unlawful participation in human cloning and 2) unlawful transfer of human organisms. A Class D felony is punishable by a prison term ranging from between six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class C felony offenders is approximately two years, and the average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Department of Health, Medical Licensing Board, Attorney General, State-supported Universities, and the Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.